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Galden

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Protest of Bid Rejection as Nonresponsive]

FILE: B-201013

DATE: February 9, 1981

MATTER OF: Freund Precision, Inc.

DIGEST:

Cancellation of solicitation because requirement for item no longer exists renders moot protest that bid was improperly found nonresponsive under solicitation since no award under solicitation could be made even if bid was found to be responsive.

Freund Precision, Inc. (Freund), protests the rejection of its bid as nonresponsive under invitation for bids (IFB) DAAA09-80-B-2459, for 1,688 binocular carrying cases, issued by the United States Army Armament Materiel Readiness Command, Rock Island, Illinois (Army).

Initially, this solicitation was canceled after the low bidder was determined to be nonresponsive and the bids of the other two bidders, Freund and Kessler Consulting Services, were determined nonresponsive to the terms of the solicitation for failure to make entries identifying the end product to be used as required under clause K.30, "Source Controlled Items or Components."

Freund's basis of protest is that clause K.30 did not clearly require that the manufacturer's name and part number be inserted in the blank provided in the invitation to be considered responsive.

However, the Army now advises our Office that the current requirement for this item has been canceled under Defense Acquisition Regulation (DAR) § 2-404.1 (b) (iii) (DAC 76-17, September 1, 1978) and states that it does not appear likely that this item will be reprocured during fiscal year 1981. We also note that the protester has not questioned this determination. Under these circumstances, we believe the protest is moot.

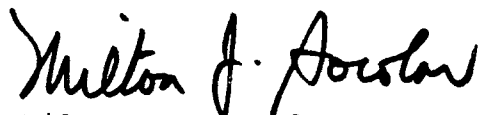
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With respect to formally advertised procurements, DAR §§ 2-209 (1976 ed.) and 2-404.1(b)(iii) (DAC 76-17, September 1, 1978) permit cancellations of an IFB either before or after bid opening when, as here, it is determined that the supplies or services are no longer needed. The Stancil-Hoffman Corporation Magnasync/Moviola Corporation, B-193001.2, B-197279, September 29, 1980, 80-2 CPD 226; United Security, Inc., B-194867, June 21, 1979, 79-1 CPD 445. The cases, in fact, speak of the contracting officer's duty to cancel the solicitation where supplies are no longer needed. Federal Leasing, Inc., DPF Inc., 54 Comp. Gen. 872, 877, 878 (1975), 75-1 CPD 236.

Thus, whether or not the protester's bid was properly found nonresponsive, no award could have been made under this IFB. In such cases, we have held that a proper cancellation of an IFB will moot a protest that a bid was improperly rejected. Canadian Commercial Corporation, B-196325, July 28, 1980, 80-2 CPD 70.

In view of the foregoing, the question of whether Freund's bid was responsive is moot and will not be considered.

The protest is dismissed.



Milton J. Socolar
General Counsel